United States District Court Southern District of Texas

## **ENTERED**

May 07, 2020 David J. Bradley, Clerk

## UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

| TOMAS RAUL GALLO,              | §                            |
|--------------------------------|------------------------------|
| Petitioner,                    | §                            |
|                                | §                            |
| VS.                            | § CIVIL ACTION NO. H-13-1897 |
|                                | §                            |
| LORIE DAVIS,                   | §                            |
| Director, Texas Department of  | §                            |
| Criminal Justice, Correctional | §                            |
| Institutions Division,         | §                            |
| Respondent.                    | §                            |

## **ORDER**

Texas death row inmate Thomas Raul Gallo filed a federal petition for a writ of habeas corpus in 2014. After Gallo amended his petition in 2016, this Court stayed and abated this capital habeas corpus action to allow for the exhaustion of state court remedies. (Docket Entry No. 62). From this Court's review of the state court docket, it appears that Gallo has not been actively litigating his action in state court. A federal habeas case "should not be stayed indefinitely." *Rhines v. Weber*, 544 U.S. 269, 278 (2005). The circumstances require a serious reassessment of whether continued abatement is in the interests of justice. Within thirty (30) days from the entry of this Order, Gallo will provide an advisory explaining: (1) the status of any on-going state habeas litigation; (2) what efforts Gallo has made to litigate diligently in state court; and (3) any circumstances that would discourage reopening this federal habeas action.

If the circumstances so warrant, Respondent may file a reply or appropriate motion within ten days of Gallo's advisory.

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| The Clerk will provide copies of the | nis Order to the part | ties.                           |
|--------------------------------------|-----------------------|---------------------------------|
| Signed at Houston, Texas, on         | May 7                 | , 2020.                         |
|                                      |                       | D. GILMORE FATES DISTRICT JUDGE |